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UNCLAS SECTION 01 OF 02 THE HAGUE 000206

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STATE PASS FEDERAL RESERVE BOARD - INTERNATIONAL DIVISION, TREASURY
FOR IMI/OASIA.VATUKORALA, USDOC FOR
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TAGS: ECON EFIN PGOV PREL NL
SUBJECT: NETHERLANDS: ING SEEKS LEVEL PLAYING FIELD IN U.S.

REF: THE HAGUE 60

THE HAGUE 00000206 001.2 OF 002

¶1. This is an action request for State and Treasury; see paragraph ¶9.

¶2. Summary: The head of ING's insurance operations in the United States said the significant presence of U.S. mortgage-backed securities on ING's books necessitated a Dutch government bailout and layoffs. Although ING's banking deposits are growing, the insurance arm continues to suffer; it will likely be one to two years before the company is operating normally again. ING is seeking USG assistance to "level the playing field" between U.S. financial institutions and those owned by foreign parent companies. ING wants Treasury to open TARP to foreign-owned banks and insurers, and to extend the waiver of the loss limitation rule to capital support provided by foreign governments. ING also inquired about USG actions in response to Argentina's nationalization of the pension industry, including ING's operations there. End summary.

ING WEAK BUT LOOKING TO RECOVER

¶3. Charge met March 11 with Tom McInerney, Chairman and CEO of ING Insurance Americas, the Americas insurance branch of Dutch-owned banking and insurance giant ING. ING Americas and ING Direct, a thrift savings bank, are active in the United States; the presence of U.S. "Alt-A" mortgage backed securities (MBS) on their books has resulted in significant losses and Dutch government bailouts for the whole ING group (reftel). McInerney characterized ING's overall health as good, noting that the banking business is weathering the financial crisis better than the insurance branches. ING's retail banking business is growing its deposits, particularly in the Benelux region. ING Americas, however, is faring less well. As America's third largest 401K provider, ING Americas is a fee-based business. McInerney explained that, as the value of the Alt-A MBS and other assets has declined, so too have the fees that ING is able to charge. Meanwhile, ING Americas' fixed costs have not declined, thus necessitating an aggressive cost savings plan. ING plans to lay off 7,000 of its 124,000 employees worldwide, including 900 from ING America's U.S. operations and 1,500 from its Latin American operations.

¶4. McInerney added that the Government of Argentina's (GOA) recent decision to nationalize the country's pension industry has hurt ING Americas' operations. The company was forced to write-off 180 million euro in the fourth quarter 2008 by GOA action. McInerney noted that MetLife also had been significantly affected in Argentina. He asked Charge what the U.S. government had done in response to GOA's actions. We said we would ask and advise

McInerney accordingly.

¶5. According to McInerney, the assistance provided by the Government of the Netherlands (GONL) has been extremely helpful in restoring investor confidence. In accordance with U.S. thrift savings laws, ING Direct was required to invest two-thirds of its assets in mortgage instruments. The bank therefore bought residential MBS that "turned out not to be AAA rated." In the end, ING Direct was facing the possibility of defaulting on 30 billion euro of "Alt-A" MBS, while ING Americas was looking at defaulting on 5 billion euro of the same instruments. As ING's capital ratios and share prices
Qthe same instruments. As ING's capital ratios and share prices plummeted, ING accepted a capital injection of 10 billion euro in October 2008 from the GONL's emergency bank fund. Of that amount, approximately 2.2 billion euro was directed toward ING Americas and ING Direct's U.S. operations. In January 2009, the GONL agreed to guarantee 80 percent of the 27.7 billion euro portfolio of "Alt-A" MBS owned by ING Direct USA and ING Americas. McInerney noted this was a "good deal" for the GONL; it did not have to purchase the MBS -- only to guarantee the portfolio. In return, the GONL receives the cash flows from the portfolio; McInerney estimated that the GONL should earn about 600 million euro in profit from these assets over the next five years. Meanwhile, the GONL assistance has improved ING's capital ratios; ING is now in "good shape" and does not expect to need further rescue measures from the Dutch state. ING is now focused on "de-risking" its portfolios and "retaining and growing" its customer base. McInerney estimates that ING in "one to two years away from operating normally."

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ING WANTS LEVEL PLAYING FIELD FROM U.S. TREASURY
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¶6. McInerney explained that ING was seeking USG assistance on two key issues, both related to "leveling the playing field" between

U.S. and foreign-owned financial institutions. First, ING is urging Treasury Secretary Geithner to open the Troubled Asset Relief Program (TARP) to foreign-owned banks and insurers like ING Americas and ING Direct. McInerney noted that U.S. insurance companies currently are not eligible for TARP (only U.S. banks), but Treasury will probably be forced to include them soon, given the large, variable annuities on their books which must be marked to market. If and when TARP is expanded to U.S. insurers, ING wants Treasury to provide the same access to U.S. subsidiaries of foreign-owned institutions which are identical in structure to their U.S. based competitors. Doing so would create a level playing field, increase financial stability, and in ING's case, ensure the continuation of retirement plans to 10 million American consumers. ING also notes that it may prove increasingly difficult for foreign governments like the GONL to continue providing U.S. banks and insurers with capital support. McInerney emphasized the fact that although ING Americas is a subsidiary of a Dutch parent company, it remains one of the top five U.S. insurers and acts in every respect like a U.S. institution. In essence, ING is seeking national treatment.

¶7. ING's second request is for Secretary Geithner to retroactively extend the waiver of the loss limitation rule to capital support provided by foreign governments. Part of Section 382 of the U.S. Internal Revenue Code, the loss limitation rule is triggered when ownership of a company changes by more than 50 percent in any three-year period. In that case, the IRS severely restricts the use of realized tax losses after the ownership change. In November 2008, Treasury issued Notice 2008-100 stating that capital support from the USG's Capital Purchase Program will not be counted in a Section 382 calculation of the cumulative change in ownership percentage. (Notice 2009-14 subsequently extended the provision to include all USG capital support issued under the Emergency Economic Stabilization Act.) This relief does not apply, however, to capital support that parent institutions of U.S. subsidiaries receive from foreign governments.

¶8. The GONL's issuance in November 2008 of 10 billion euro in emergency capital to ING brought ING's cumulative change of

ownership to 42 percent. As a result, ING argues that even relatively small changes in ownership in the coming three years are likely to increase this percentage in excess of the 50 percent threshold. ING asserts that triggering the loss limitation rule would have a substantial detrimental impact on its equity and profit-and-loss. Again ING is seeking national treatment for U.S. institutions owned by a foreign parent. The absence of a loss limitation waiver it makes it impossible for foreign governments or private investors to make substantial capital contributions. ING -- as well as the GONL and the Institute for International Bankers -- has raised this issue with Treasury; they are calling to retroactively extend the relief in Notices 2008-100 and 2009-14 to capital support provided by foreign governments.

¶9. Action Request: Post requests guidance from State and Treasury on the three issues raised by ING:

- Opening TARP to foreign-owned banks and insurers (para 6);
Q- Opening TARP to foreign-owned banks and insurers (para 6);

- Extending the waiver of the loss limitation rule to capital support provided by foreign governments (paras 7-8), and;

- USG actions in response to the Government of Argentina's nationalization of the pension industry (paras 4).

GALLAGHER